



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

(Attorney Docket No. 1545)

In re the Application of:

Moll et al.

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For: Method and System for Providing  
Location Based Information to a  
Mobile Station

Group Art Unit: 2687

Examiner: Un C. Cho

APPEAL BRIEF

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## **I. Real Party in Interest**

The real party in interest is Sprint Spectrum L.P., to which this invention is assigned.

## **II. Related Appeals and Interferences**

Applicant is not aware of any related appeals or interferences.

## **III. Status of Claims**

Claims 2-15 are pending and stand rejected. The rejection of claims 2-15 is being appealed. A clean set of the pending claims is attached in the Claims Appendix beginning at page 12.

## **IV. Status of Amendments**

No amendments were filed subsequent to the final rejection mailed August 10, 2005.

## **V. Summary of Claimed Subject Matter**

Of claims 2-15, claims 4, 9, 12, and 13 are independent. Claims 2, 3, 5-8, 10, 11, and 15 are dependent on claim 4. Claim 14 is dependent on claim 13.

Claim 4 is directed to a method of providing location based information to a mobile station in communication with a cellular wireless system. The method comprises the steps of: (i) receiving a request for location based information regarding a service, the request including a service identifier, wherein the service identifier is associated with the service (*see* Specification, p. 5, lines 9-14, p. 10, lines 18-20); (ii) associating a level of granularity with the service identifier (*see* Specification, p. 10, line 20 – p. 11, line 4); (iii) based on the service identifier, instructing the cellular wireless system to determine the position of the mobile station at the associated level of granularity (*see* Specification, p. 11, line 5 – p. 12, line 4); (iv) receiving a position of the mobile station (*see* Specification, p. 11, line 5 – p. 12, line 4); (v) associating a

provider-defined region with the position of the mobile station and with the service identifier (*see* Specification, p. 12, lines 5-21); and (vi) retrieving the location based information, wherein the location based information is associated with the provider-defined region (*see* Specification, p. 12, line 22 – p. 13, line 6).

Claim 9 is directed to a method for providing location based information to a mobile station in communication with a cellular wireless system. The method comprises the same steps as recited in claim 4, but further specifies that the “retrieving” step (vi) comprises the steps of: (a) mapping the provider-defined region to a universal resource locator (*see* Specification, p. 12, line 23 – p. 13, line 2); (b) transmitting a request for the location based information to the universal resource locator (*see* Specification, p. 13, lines 3-5); (c) receiving a response containing the location based information from the universal resource locator (*see* Specification, p. 13, lines 5-6); (d) associating a surrogate identifier with the mobile station, wherein the request includes the surrogate identifier but no other identifier for the mobile station (*see* Specification, p. 13, lines 7-18); (e) determining whether the response contains the surrogate identifier (*see* Specification, p. 14, lines 3-7); and (f) when the response contains the surrogate identifier, associating the location based information with the mobile station (*see* Specification, p. 14, lines 7-10).

Claim 12 is directed to a system for providing location based information to a mobile station in communication with a cellular wireless system. The system comprises: (i) a switch (MSC 18 in Figs. 1 and 2); (ii) position determining equipment (PDE 38 in Fig. 2); and (iii) a computer connected to the switch and to the positioning determining equipment (MPC 32 in Fig. 2). Claim 12 further specifies that the computer runs a program that performs the steps of: (a)

receiving from the switch a request for location based information regarding a service, wherein the request includes a service identifier, and wherein the service identifier is associated with the service (*see* Specification, p. 5, lines 9-14, p. 10, lines 18-20); (b) associating a level of granularity with the service identifier (*see* Specification, p. 10, line 20 – p. 11, line 4); (c) based on the service identifier, instructing the cellular wireless system to determine the position of the mobile station at the associated level of granularity (*see* Specification, p. 11, line 5 – p. 12, line 4); (d) obtaining a position of the mobile station from the position determining equipment (*see* Specification, p. 11, lines 14 – 21); (e) associating a provider-defined region with the position of the mobile station and with the service identifier (*see* Specification, p. 12, lines 5-21); (f) retrieving the location based information associated with the provider-defined region (*see* Specification, p. 12, lines 22 – 23); and (g) providing the location based information to the switch for forwarding to the mobile station (*see* Specification, p. 12, lines 23 – p. 13, line 6).

Claim 13 is directed to a method for providing location based information to a mobile station in communication with a cellular wireless system. The method comprises the steps of: (i) receiving a request for location based information regarding a service, the request including a service identifier, wherein the service identifier is associated with a service (*see* Specification, p. 5, lines 9-14, p. 10, lines 18-20); (ii) associating a level of granularity with the service identifier (*see* Specification, p. 10, line 20 – p. 11, line 4); (iii) instructing the cellular wireless system to determine a position of the mobile station at the associated level of granularity (*see* Specification, p. 11, line 5 – p. 12, line 4); (iv) associating a zone layer with the service identifier, wherein the zone layer is a categorization of zones for the service identifier (*see* Specification, p. 15, lines 12 – 18); (v) selecting a zone from the zone layer, wherein the zone corresponds to the position of

the mobile station (*see* Specification, p. 15, lines 20-21); (vi) determining a provider-defined region that encompasses the zone (*see* Specification, p. 15, lines 21-22); (vii) mapping the provider-defined region to a universal resource locator (*see* Specification, p. 16, lines 2-3); (viii) transmitting a request for the location based information to the universal resource locator (*see* Specification, p. 13, lines 3-5); (ix) receiving a response containing the location based information from the universal resource locator (*see* Specification, p. 13, lines 5-6); and (x) providing the location based information to the mobile station (*see* Specification, p. 13, lines 5-6).

#### **VI. Grounds of Rejection to be Reviewed on Appeal**

Claims 2, 4, 6, 7, 10, and 11 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent No. 6,434,381 (Moore) in view of U.S. Patent No. 6,385,458 (Papadimitriou).

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Moore in view of Papadimitriou, and further in view of U.S. Pub. No. 2002/0107029 (Caughran).

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Moore in view of Papadimitriou, and further in view of U.S. Patent No. 6,233,448 (Alperovich).

Claims 8 and 15 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Moore in view of Papadimitriou, and further in view of U.S. Pub. No. 2003/0060211 (Chern).

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Moore in view of Papadimitriou, and further in view of Chern and U.S. Patent No. 6,650,902 (Richton).

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Richton in view of Papadimitriou.

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Richton in view of Papadimitriou, and further in view of Caughran and Chern.

## **VII. Argument**

### **A. The Examiner Erred in Rejecting Claims 2, 4, 6, 7, 10 and 11 as Being Obvious over a Combination of Moore and Papadimitriou**

These rejections 35 U.S.C. § 103(a) are improper, because the Examiner has failed to establish a *prima facie* case of obviousness of the claims over a combination of Moore and Papadimitriou. In order to establish a *prima facie* case of obviousness over a combination of references, the combination must teach or suggest all of the claim limitations. M.P.E.P. § 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In this case, however, even if Moore and Papadimitriou are combined together, the resulting combination still fails to teach or suggest all of the limitations recited in claims 2, 4, 6, 7, 10, and 11.

In particular, claim 4, the independent claim among these claims, recites, *inter alia*, the steps of (i) receiving a request for location based information regarding a service, wherein the request includes a service identifier that is associated with the service, (ii) associating a level of granularity with the service identifier, and (iii) based on the service identifier, instructing the cellular wireless system to determine the position of the mobile station at the associated level of granularity. Although the Examiner's rejection of claim 4 is based on a combination of Moore and Papadimitriou, the Examiner has relied on Papadimitriou for elements (ii) and (iii) cited above. *See* Final Office Action, p. 3.



However, the Examiner's reliance on Papadimitriou is clear error. In a first aspect, the Examiner's argument for why Papadimitriou discloses elements (ii) and (iii) is internally inconsistent. In a second aspect, even if Papadimitriou could be viewed as disclosing both elements (ii) and (iii), Papadimitriou actually teaches away element (i). These two aspects of the Examiner's clear error are discussed separately below.

**1. The Examiner's argument is internally inconsistent**

For element (ii), the step of associating a level of granularity with the service identifier, the Examiner has identified the "location request" in Papadimitriou as the "service identifier." For example, in rejecting claim 4, the Examiner argued: "Papadimitriou discloses associating a level of granularity (precision) with the service identifier (location request)." *See* Final Office Action, p. 3.

Inconsistently, however, for element (iii), the step of based on the service identifier, instructing the cellular wireless system to determine the position of the mobile station at the associated level of granularity, the Examiner identified the "priority information" in Papadimitriou as the "service identifier." In particular, for element (iii), the Examiner cited to a section of Papadimitriou that makes clear that the location of the mobile terminal is estimated to a precision that is based on the priority information:

[T]he LMUs servicing the terminal device use the priority information generated in the GMLC location estimate request step 235 to estimate the location of the terminal device to a predetermined precision in a location estimate step 245.

(col. 6, lines 41-45).

This "priority information" that the Examiner uses as the "service identifier" for element (iii) is not the "location request" that the Examiner uses as the "service identifier" for element

(ii). Indeed, Papadimitriou makes clear that the “priority information” is obtained *after* the “location request.” As shown in Figure 2 of Papadimitriou, the user makes the “location request” in step 215 (col. 5, lines 56-58). Then, the user is prompted to enter a desired priority level in step 220 (col. 5, line 66 – col. 6, line 2). The desired priority level is checked against the subscribed priority level in step 225. If the subscribed priority level is not exceeded, the process goes through steps 235, 240, and 245 to estimate the location of the terminal device to a precision that is based on the priority level (col. 6, lines 3-45).

Because the Examiner relies on Papadimitriou’s “location request” as the “service identifier” in element (ii), but relies on Papadimitriou’s “priority information” as the “service identifier” in element (iii), the Examiner’s argument that Papadimitriou discloses both elements (ii) and (iii) is internally inconsistent and, therefore, clearly erroneous.

**2. Papadimitriou teaches away from including the service identifier that determines the level of granularity in the request for location based information**

Separate and apart from the Examiner’s inconsistent argument, it is clear that in Papadimitriou the location of the mobile station is estimated to a precision that is based on “priority information” (col. 6, lines 41-45). However, this “priority information” is obtained from the user in prompt for priority step 220 *after* the user makes the location request of step 215 (Fig. 2). Thus, Papadimitriou teaches an approach in which the user is asked for a desired priority level to use for the location estimate *after* the user has requested the location estimate:

At some point, a user will request the location of the terminal device. The LCS algorithm 200 will receive this request in a location request step 215. ... Next, the LCS algorithm 200 request the user to enter a desired priority level in a prompt for priority step 220. The user will then enter the priority level he wishes to use for the estimating the location of the terminal device.

(col. 5, line 56 – col. 6, line 2). In contrast, element (i) specifies that the service identifier is *included* in the request for location based information.

By teaching that the user is prompted *after* the user's location request in order to determine the level of precision for locating the mobile station, Papadimitriou teaches away from the claimed approach in which the request for location based information already *includes* the service identifier that determines the level of precision for locating the mobile station. By failing to consider this teaching away in Papadimitriou, the Examiner has clearly erred. See MPEP § 2145(X)(D)(2) ("It is improper to combine references where the references teach away from their combination.").

**B. The Examiner Erred in Rejecting Claim 3 as Being Obvious Over a Combination of Moore, Papadimitriou and Caughran**

Claim 3 depends from claim 4. As discussed above, the combination of Moore and Papadimitriou fails to teach or suggest all of the limitations of claim 4. Caughran does not make up for the deficiencies in the Moore/Papadimitriou combination. Moreover, if an independent claim is nonobvious, then any claim depending therefrom is nonobvious. MPEP § 2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, the Examiner's rejection of claim 3 is improper for at least the same reasons that the Examiner's rejection of claim 4 is improper.

**C. The Examiner Erred in Rejecting Claim 5 as Being Obvious Over a Combination of Moore, Papadimitriou and Alperovich**

Claim 5 depends from claim 4. As discussed above, the combination of Moore and Papadimitriou fails to teach or suggest all of the limitations of claim 4. Alperovich does not make up for the deficiencies in the Moore/Papadimitriou combination. Moreover, if an independent claim is nonobvious, then any claim depending therefrom is nonobvious. MPEP § 2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, the

Examiner's rejection of claim 5 is improper for at least the same reasons that the Examiner's rejection of claim 4 is improper.

**D. The Examiner Erred in Rejecting Claims 8 and 15 as Being Obvious Over a Combination of Moore, Papadimitriou and Chern**

Claims 8 and 15 depend from claim 4. As discussed above, the combination of Moore and Papadimitriou fails to teach or suggest all of the limitations of claim 4. Chern does not make up for the deficiencies in the Moore/Papadimitriou combination. Moreover, if an independent claim is nonobvious, then any claim depending therefrom is nonobvious. MPEP § 2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, the Examiner's rejections of claims 8 and 15 are improper for at least the same reasons that the Examiner's rejection of claim 4 is improper.

**E. The Examiner Erred in Rejecting Claim 9 as Being Obvious Over a Combination of Moore, Papadimitriou, Chern and Richton**

Claim 9 recites the same elements (i), (ii), and (iii) as recited in claim 4. As discussed above in Sections VII.A.1 and VII.A.2, the Moore/Papadimitriou combination fails to teach or suggest these elements. Chern and Richton do not make up for the deficiencies in the Moore/Papadimitriou combination. Thus, the Examiner's rejection of claim 9 is improper for at least the same reasons that the Examiner's rejection of claim 4 is improper.

**F. The Examiner Erred in Rejecting Claim 12 as Being Obvious Over a Combination of Richton and Papadimitriou**

Claim 12 recites, *inter alia*, "a switch" and a computer that runs a program that performs the step of "receiving from the *switch* a request for location based information regarding a service, wherein the request includes a service identifier, and wherein the service identifier is associated with the service." The Examiner has identified the wireless switching center (WSC) 220 in Richton as the claimed "switch" and has argued that Richton also discloses the "receiving" step. See Final Office Action, p. 10. However, the section of Richton cited by the

Examiner as disclosing the “receiving” step (col. 3, 9-28) does not refer to receiving any request and also does not refer to the switch (WSC 220) at all. Richton does disclose that a location-based controller 301 can request information by accessing external information sources 310 through WSC 220 (col. 4, lines 60-63; col. 6, lines 23-25). However, Richton does not teach that such a request for information would include a service identifier associated with a service, as recited in claim 12. Accordingly, Richton does not teach or suggest the “receiving” step of claim 12.

Papadimitriou does not make up for this deficiency in Richton. As noted above in Section VII.A.2, Papadimitriou actually teaches away from a request for location based information regarding a service that *includes* a service identifier associated with the service.

Because the Richton/ Papadimitriou combination does not teach each and every element of claim 12, the Examiner has failed to make a *prima facie* case of obviousness of claim 12. Accordingly, Applicant respectfully submits that the Examiner’s rejection of claim 12 is improper and should be reversed.

**G. The Examiner Erred in Rejecting Claims 13 and 14 as Being Obvious Over a Combination of Richton, Papadimitriou, Caughran and Chern**

Of these claims, claim 13 is independent and claim 14 is dependent therefrom. Claim 13 recites, *inter alia*, the step of “receiving a request for location based information regarding a service, the request including a service identifier, wherein the service identifier is associated with the service.” The Examiner has argued that Richton discloses this step at col. 3, lines 9-28, col. 6, lines 31-34, and 46-52. The Examiner is clearly wrong.

Col. 3, lines 9-28 simply describes a block diagram of the salient components of a location-based server 221. The section does not refer to receiving any request or to any service identifier.

Col. 6, lines 31-34 teaches that a location-based controller 301 can request a location determining server 303 to determine the location of a wireless mobile unit. However, a request to determine a location of a wireless mobile unit is not a “request for location based information regarding a service” and would not include a service identifier associated with the service.

Col. 6, lines 46-52 describes a location-based preferences server 305. The section does not refer to receiving any request or to any service identifier.

Accordingly, Richton does not teach or suggest the “receiving” step of claims 13 and 14. The other references in the Examiner’s combination, Papadimitriou, Caughran, and Chern, do not make up for this deficiency in Richton. Indeed, as noted above in Section VII.A.2, Papadimitriou actually teaches away from a request for location based information regarding a service that *includes* a service identifier associated with the service.

Because the combination of Richton, Papadimitriou, Caughran, and Chern do not teach each and every element of claims 13 and 14, the Examiner has failed to make a *prima facie* case of obviousness of these claims. Accordingly, Applicant respectfully submits that the Examiner’s rejections of claims 13 and 14 are improper and should be reversed.

#### **H. Conclusion**

Applicant has demonstrated that the rejections of claims 2-15 are in error as a matter of law. Applicant therefore requests reversal of the rejections and allowance of all pending claims in this application.

Respectfully submitted,

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## VIII. CLAIMS APPENDIX

1. (Cancelled)

2. (Previously Presented) A computer readable medium having stored therein instructions for causing a central processing unit to execute the method of Claim 4.

3. (Previously Presented) The method of Claim 4 wherein the associating step comprises the steps of:

ascertaining a zone layer for the service identifier, wherein the zone layer is a categorization of zones for the service identifier;

selecting a zone from the zone layer, wherein the zone corresponds to the position of the mobile station; and

determining the provider-defined region that encompasses the zone.

4. (Previously Presented) A method for providing location based information to a mobile station in communication with a cellular wireless system, the method comprising the steps of:

receiving a request for location based information regarding a service, the request including a service identifier, wherein the service identifier is associated with the service;

associating a level of granularity with the service identifier;

based on the service identifier, instructing the cellular wireless system to determine the position of the mobile station at the associated level of granularity;

receiving a position of the mobile station;

associating a provider-defined region with the position of the mobile station and with the service identifier; and

retrieving the location based information, wherein the location based information is associated with the provider-defined region.

5. (Original) The method of Claim 4 wherein the instructing step comprises the steps of:

determining whether the level of granularity is a low level of granularity; and

when the level of granularity is the low level of granularity, assigning a cell identifier as the position of the mobile station.

6. (Original) The method of Claim 4 wherein the instructing step comprises the steps of:

determining whether the level of granularity is a high level of granularity; and

when the level of granularity is the high level of granularity, instructing position determining equipment to provide the position of the mobile station.

7. (Previously Presented) The method of Claim 4 wherein the step of receiving a position of the mobile station comprises the step of:

receiving global positioning system coordinates from the mobile station, wherein the coordinates represent the position of the mobile station.



8. (Previously Presented) The method of Claim 4 wherein the retrieving step comprises the steps of:

mapping the provider-defined region to a universal resource locator;

transmitting a request for the location based information to the universal resource locator;

and

receiving a response containing the location based information from the universal resource locator.

9. (Previously Presented) A method for providing location based information to a mobile station in communication with a cellular wireless system, the method comprising the steps of:

receiving a request for location based information regarding a service, the request including a service identifier, wherein the service identifier is associated with the service;

associating a level of granularity with the service identifier;

based on the service identifier, instructing the cellular wireless system to determine the position of the mobile station at the associated level of granularity;

receiving a position of the mobile station;

associating a provider-defined region with the position of the mobile station and with the service identifier; and

retrieving the location based information, wherein the location based information is associated with the provider-defined region;

wherein the retrieving step comprises the steps of:

mapping the provider-defined region to a universal resource locator;  
transmitting a request for the location based information to the universal resource locator;  
receiving a response containing the location based information from the universal resource locator;  
associating a surrogate identifier with the mobile station, wherein the request includes the surrogate identifier but no other identifier for the mobile station;  
determining whether the response contains the surrogate identifier; and  
when the response contains the surrogate identifier, associating the location based information with the mobile station.

10. (Previously Presented) The method of Claim 4 wherein the retrieving step comprises the step of:

reading the location based information from a database entry, wherein the database entry is associated with the provider-defined region.

11. (Previously Presented) The method of Claim 4 further comprising the step of:  
providing the location based information associated with the provider-defined region to the mobile station.

12. (Previously Presented) A system for providing location based information to a mobile station in communication with a cellular wireless system, comprising:

a switch;  
position determining equipment; and  
a computer connected to the switch and to the position determining equipment, wherein  
the computer runs a program that performs the steps of:

receiving from the switch a request for location based information regarding a  
service, wherein the request includes a service identifier, and wherein the service  
identifier is associated with the service;

associating a level of granularity with the service identifier;

based on the service identifier, instructing the cellular wireless system to  
determine the position of the mobile station at the associated level of granularity;

obtaining a position of the mobile station from the position determining  
equipment;

associating a provider-defined region with the position of the mobile station and  
with the service identifier;

retrieving the location based information associated with the provider-defined  
region; and

providing the location based information to the switch for forwarding to the  
mobile station.

13. (Previously Presented) A method for providing location based information to a  
mobile station in communication with a cellular wireless system, the method comprising the  
steps of:

receiving a request for location based information regarding a service, the request including a service identifier, wherein the service identifier is associated with the service;

associating a level of granularity with the service identifier;

instructing the cellular wireless system to determine a position of the mobile station at the associated level of granularity;

associating a zone layer with the service identifier, wherein the zone layer is a categorization of zones for the service identifier;

selecting a zone from the zone layer, wherein the zone corresponds to the position of the mobile station;

determining a provider-defined region that encompasses the zone;

mapping the provider-defined region to a universal resource locator;

transmitting a request for the location based information to the universal resource locator;

receiving a response containing the location based information from the universal resource locator; and

providing the location based information to the mobile station.

14. (Original) A computer readable medium having stored therein instructions for causing a central processing unit to execute the method of Claim 13.

15. (Previously Presented) The method of Claim 8 further comprising the steps of:

associating a surrogate identifier with the mobile station, wherein the request includes the surrogate identifier but no other identifier for the mobile station;

determining whether the response contains the surrogate identifier; and

when the response contains the surrogate identifier, associating the location based information with the mobile station.

**IX. EVIDENCE APPENDIX**

None.

**X. RELATED PROCEEDINGS APPENDIX**

None.